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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,007	11/21/2003	Shigeru Sugaya	7217/57614-RE	3987
530 7590 07/29/2008 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090				
EXAMINER CHUNG, PHUNG M				
ART UNIT		PAPER NUMBER		
2117				
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07/29/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/720,007

Applicant(s)

SUGAYA, SHIGERU

Examiner

PHUNG My CHUNG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-19, 21-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-19, 21-30 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/232,630.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The indicated allowability of claims 15-19 and 24-30 and the final rejection is withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12-15, 21-24, 29-30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Dahod (4,500,989).

As per claim 30, Dahod discloses a communication system comprising:

A first transmitting unit is inherent in the system of Dahod, see col. 4, lines 45-47, operable to transmit a control packet (control message);

A second transmitting unit is inherent in the system of Dahod, see col. 4, lines 52-54, operable to transmit a data packet (data message),

Each of the control packet and the data packet having a header information field and a first field for error detecting or error correcting (col. 6, lines 49-57), the data packet further having a data information field and a second field for error detecting or error correcting (see Fig. 3 (j) and col. 7, lines 3-9),

In which a structure of the header information field and the first field for error detecting or error correcting of the control packet is the same as that of the header

information field and the first field for error detecting or error correcting of the data packet (see Fig. 2 and Fig.3 (j-k) and col. 6, lines 49-57).

As per claim 21, Dahod further discloses in which the first field for error detecting or error correcting is for detecting or correcting an error or errors which occurred in the header information field (col. 6, lines 49-53).

As per claim 22, Dahod further discloses in which the second field for error detecting or error correcting is for detecting or correcting an error or errors which occurred in the data information field (col. 7, lines 3-7).

As per claim 23, further discloses in which the control packet is without the data information field (Fig. 3 (k)).

As per claim 24, further discloses in which the structure includes a size such that the size of the header information field and the first field for error detecting or error correcting is the same in the control packet and the data packet (Fig. 3 (j and k)).

As per claims 29 and 32, these method claim are rejected under similar rationale as set forth in the system claim 30.

As per claim 12, this method claim is rejected under similar rationale as set forth in the system claim 21.

As per claim 13, this method claim is rejected under similar rationale as set forth in the system claim 22.

As per claim 14, this method claim is rejected under similar rationale as set forth in the system claim 23.

As per claim 15, this method claim is rejected under similar rationale as set forth in the system claim 24.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 16-19 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahod (4,500,989) in view of Nishimura et al (5,646,941).

As per claims 25-28, the teaching of Dahod have been discussed above. They do not specifically disclose a tail bit indicating a termination of the header field. However, Nishimura et al disclose a tail bit indicating a termination of the header field (a header end flag (EOH)) (col. 4, lines 40-48). Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the

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tail bit (header end flag) as taught by Nishimura et al into the invention of Dahod to indicate a termination of the header field or to indicate no header component provided after the present header component.

As per claims 16-19, these method claims are rejected under similar rationale as set forth in the system claims 25-28.

6. Applicant's arguments with respect to claims 12-23 and 32 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUNG My CHUNG whose telephone number is (571)272-3818. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on 571-272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Phung My Chung/  
Primary Examiner, Art Unit 2117